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The Daily Courant.

Tuesday, January 11. 1704

London, January 11.

THE *King of* Spain, (Charles III.) *has caus'd a* Manifesto *to be written, setting forth his Right to that Monarchy, and the just Motives of the Expedition he is upon; Which* Manifesto *is printed in* Spanish *in* 5 *sheets in* Quarto, *with intent to be dispers'd in* Spain *at a proper time after his Majesty's arrival in Portugal. It was likewise printed in* French, *while his Majesty was at the* Hague; *A Copy of which having been communicated to us, we shall publish it intire in* English *in a few days. Mean time, in the want of Foreign News, we present the Publick with an Extract of it.*

THE Justice of this Expedition of Charles III. to take Possession of the Monarchy of Spain as it was left by Charles II. his Predecessor, is founded First, on the Cession made to him in due Form by the Emperor and the King of the Romans, of their incontestable Right to that Monarchy. Secondly, On the Publick Good of the Grandees and People, with whom Conscience and Interest ought to prevail in favour of his Majesty.

As to the first Point, it is notorious that the Emperor Leopold is Son of the Emperor Ferdinand III. and of Mary Anne Infanta of Spain, Daughter of Philip III. and Sister of Philip IV. Kings of Spain; And that he became sole Heir to the Infanta his Mother by the Death of his elder Brother Ferdinand IV. King of the Romans. Now the Issue of the Infanta Mary Anne, has the only Right to succeed on the Throne of Spain after the Death of Charles II. Son of Philip IV. Because, tho' it is true that Philip III. gave his eldest Daughter Anne of Austria to Louis XIII. King of France, who had by her Louis XIV. and the late Duke of Orleans: and tho' Philip IV. had 2 Daughters, the eldest of which Maria Theresa was married to Louis XIV. King of France; and the other Margarita Theresa to Leopold the Emperor of the Romans, whose Daughter by that Marriage, Maria Antonia, was married to Maximilian Elector of Bavaria: Yet, the Rights of Anne and Maria Theresa Queens of France, and of Maria Antonia Electress of Bavaria, were annull'd by the Renunciations approv'd by their Hnsbands before their Marriages: And besides, the Prince Electoral of Bavaria, Son of Maria Antonia, died in his Infancy. So that there remains alive no other Posterity but what were born of the 2 Queens of France Anne and Maria Theresa; which with their Issue are excluded by the most Solemn Renunciations that Human Prudence could invent, confirm'd by the Oaths of the Husbands of those Queens, and by the most authentick publick Treaties. Without those Renunciations those Marriages had never been made, they ought therefore to stand good.

Notwithstanding which, the French having invaded the Spanish Netherlands after the Death of Philip IV. under pretext of a Law in force among the People of those Provinces, where in some cases a Daughter of the first Venter, is preferr'd to a Son of the second Venter; certain French Writers treating of the pretended Rights of their Queen, took upon them to question the Validity of the Renunciation made by Her. And, among other things which were all refuted to the general Conviction of all Europe, they urg'd, that the Queen had not been paid her Portion, 500000 Pistoles, and that therefore her Renunciation was invalid. To this it was answer'd, that the French themselves had hinder'd the Payment of that Sum, because they wilfully neglected to register the Treaty of the Pyrenees, and the Contract of Marriage, in the Parliaments of France, as was expressly stipulated in the Treaty. Besides, this Portion was not given to the Infanta as an Equivalent for the Kingdoms and Dominions of Spain; but in lieu of her own proper Jewels and other Goods: As the Contract of Marriage expresses.

It has been further urg'd, that the Renunciation made by a Father or a Mother cannot prejudice their Childrens Rights: And therefore, that what was promis'd by Maria Theresa and her Husband cannot affect the Dauphin and his Children. But, besides that the most Christian King ought not then to assist the Dauphin or his Issue in their Pretentions; it is to be observ'd, that a Father cannot give away the Rights of his Children already begotten, but as for his future Children, the Law considers them as Non-existents (things that have no Being) and consequently that can have acquir'd no Right: Otherwise, it would be impossible to make any firm Alienations, or other Compacts; because those that are not in Being cannot give their Consent; and when they come into Being might annul what they should dislike. At that rate Princes or Republicks could never bind Posterity, and consequently Treaties, Cessions, and Exchanges between Potentates, would only be personal, and liable to be dissolved or broken. And so Mankind would be depriv'd of the Means of putting an end to Wars by any lasting Agreement.

Wherefore the French finding the World abhorr'd all Maxims tending to render the plainest and most Sacred Oaths insignificant: Bethought themselves of an Expedient, and own'd the Renunciation to be good and valid, but not till after they had found out a Trick to elude the Effect of it. This Expedient was the getting a Will to be made in the Name of Charles II. when he was near his End, the 17th Article of which interprets the Renunciation of Maria Theresa in a new manner, pretending the Intention of it was *only* to hinder the Union of the 2 Crowns upon one Head; which might be avoided by calling the Duke of Anjou, the Dauphin's eldest Son, to the Crown of Spain, on condition that if the Duke of Burgundy should dye without Issue, the Duke of Anjou should have his Option which Crown he would wear, and in case he should choose that of France, then the Duke of Berry should have that of Spain.

As for that Will, the Civil Laws require that Wills should be sign'd before a good Number of Witnesses, and with other Solemnities proper to prevent Frauds. If this be requir'd to make a private Person's Will valid, how much greater Regard ought to be had, when a Crown is to be dispos'd of. Nothing ought to be omitted for preventing all Doubts and Scruples. The King ought not to have been shut up; the Queen,

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the Emperor's Ambaſſador, and the Grandees that were not in the Intereſt of the Houſe of Bourbon, ought to have been admitted; ſo extraordinary an Action ought to have been done as publickly as it could poſſibly; The King ſhould have given Directions of his own meer Motion, for drawing up ſuch a Will; it ſhould not have been brought to him ready drawn up, nor ſhould he have been ſollicited to ſign it.

But granting that Will was made by Charles II. voluntarily, and in an unexceptionable Manner, ſtill it would not avail to overthrow the Fundamental Law of the State and the Peace of the Pyrenees, in breach of the ſolemn Engagements enter'd into at the making that Peace, and in prejudice of another Perſon's acquir'd Rights.

All Men agree, that it is not in the Power of a King to diſpoſe of his Kingdoms by Will, either directly, or as an Interpreter of Laws or Contracts, unleſs his Interpretation is vallied on all other Accounts.

The Partiſans of the Houſe of Bourbon, conſcious of that Family's having no Right to the Succeſſion, have recourſe to a pretended legal Poſſeſſion, and tell us the People of the Spaniſh Monarchy voluntarily accepted of the Duke of Anjou to be their King. But we ought not without manifeſt Proof to impute to all thoſe Nations, an Intention of committing a crying Injuſtice, and derogating from the Rights of the lawful Succeſſor; 'tis one of the main Principles of Juſtice, that unleſs in a Caſe of indiſpenſible Neceſſity, which has no Law, a Perſon ought not to be diſpoſſeſs'd of what belongs to him. Now what can the Emperor be charg'd with, who out of a principle of Juſtice rejected the advantageous Offers made him by France and the other Potentates that were in the Treaty of Partition, that he might give the People of Spain no juſt cauſe of Complaint. Beſides 'tis known that when a People or Country is oblig'd to do homage to a Conquering Uſurper, or to abjure their Maſter, as it often happens in War when any place is taken by an Enemy; the true Soveraigns' Right remains intire, till he renounce it by a Treaty of Peace or otherwiſe. Now if this Force or Neceſſity does not deſtroy the Right of the lawful Lord, much leſs can that Right be deſtroy'd in the Caſe before us, where the People were under no ſuch Neceſſity?

It will be urg'd perhaps, that the Spaniards were forc'd to yield themſelves up to a French Prince, to avoid the diſmembring of their Monarchy with which they were threatn'd. But the Anſwer is ready, that the Emperor refus'd to have a hand in that diſmembring, and therefore ought not to ſuffer for it; and how unworthy the Spaniſh Generoſity is it to reward with their whole Monarchy the Author of that pretended diſmembring? Beſides, ſhould the Spaniards refuſe to put themſelves into the Hands of their lawful Succeſſor, they would themſelves become the Cauſe of the diſmembring they abhor, becauſe they would voluntarily cut off from the Body of their Monarchy, the Fiefs of the Empire and of the Church, which they have no Right to diſpoſe of in prejudice of the Perſon ſucceeding in Virtue of the Laws of thoſe Fiefs. Further ſtill, their Fears of having their Monarchy diſmember'd were not reaſonable, and therefore their Proceedings upon thoſe Fears are unjuſtifiable; The Partition projected by France, was far from being ſo certain and ſo inevitable, as it ought to have appear'd to be to excuſe their taking ſo deſperate a Reſolution.

Falmouth, Jan. 5. This day 2 Fluſhing Privateers brought in hither as Prize, a Ship of and for St. Maloes of 18 Guns from Alicant.

Plymouth, Jan. 7. Laſt Night paſs'd by this Harbour to the Weſtward Admiral Dilks with a Squadron of Her Majeſty's Ships to cruiſe on the French Coaſt. This Evening came in Her Majeſty's Ships the Greenwich and Newport from the Fleet commanded by Sir George Rooke which is now off this Harbour.

Cowes, Jan. 8. Yeſterday was brought in by two Dutch Capers a French Privateer Pink of 16 Guns taken near the Needles; the French had 6 Men kill'd and the Dutch 2; they alſo brought in a Ship laden with Wine, Prunes, &c. ſaid to be an Oſtender.

AT the Theatre Royal in *Drury-Lane*, this preſent *Tueſday* being the 11th of *January*, will be preſented a Comedy call'd, *Love's laſt Shift*, or, *The Fool in Faſhion*. With ſeveral Sonata's on the Violin, compos'd by the great *Arcangelo Corelli*, and perform'd by Signior *Gaſperini*. With ſeveral Entertainments of Dancing by the *Devonſhire* Girl, Mr. *Claxton* her Maſter, and ſeveral others. With a Night Scene between *Scaramouch*, *Harlequin*, and *Punchanello*. And Singing by Mr. *Maſon*, and Mrs *Good*.

LEFT in a Hackney Coach on *Saturday* Night the 8th inſtant, between *Charing-Croſs* and *Ruſſel-ſtreet*, *Covent-Garden*, a parcel of Books and Papers belonging to Her Majeſty's Ship the *Kinſale*; If the Coachman or any Perſon elſe will bring or ſend them to *Everitt's* Coffee-Houſe in *Crutched-Friers*, or the *George* Coffee-Houſe in the *Pall-Mall*, they ſhall have half a Guinea Reward.

WHereas *Simon Savory* a Frenchman, a Spy from *France*, on *Wedneſday* the 5th of this inſtant *January* in the Night-time, broke the Gaol of the Gatehouſe *Weſtminſter*, being aged about 20 Years, a black Man, middle Stature, ſwarthy complexion, ſome few Freckles in his Face, having on a ſad colour'd cloath Coat, a black Waſtecoat, black Stockings, by Trade a Barber Surgeon, and ſpeaks little Engliſh. Whoſoever ſhall apprehend the foreſaid *Simon Savory*, and give notice thereof to the Keeper of the Gatehouſe aforeſaid, ſhall receive of him as a Reward the Sum of Fifty Pounds.

THE Invitation, or, New-Years-Gift to the Poor, that are blind of Cataracts, and other curable Diſtempers relating to the Eyes, from Dr. READ, the Famous and Approved Oculiſt, who will generouſly cure all ſuch as are recommended to him either by the Miniſter or Church-Wardens of any Pariſh, for Charity, if they repair to his Houſe at the *Black-a-moor's Head* in *Shandon-ſtreet*, *Covent-Garden*, at any time from the Publication of this Advertiſement till the 25th of *March* next 1704. Where they will be kindly receiv'd. This is to prevent Counterfeits, as Women and ſuch like Pretenders to the curious Art of an Oculiſt, by their trying of Practices, to the Ruin of moſt they undertake, as appears by the daily complaints of many indigent Perſons paſt retrieving.

†††† A Doctor in Phyſick, Cures all the *Degrees, and Indiſpoſitions, in Venereal Perſons; and by a moſt eaſie, ſafe, and expeditious Method: He likewiſe gives his Advice in all Diſeaſes, and Preſcribes a Cure.* Dr. Harborough (*a Graduate Phyſician*) in Great Knight-Riders-Street, *near* Doctors-Commons.

ADVERTISEMENT.

A Defence of a Letter concerning the Education of Diſſenters in their private Academies; with a more full and ſatisfactory Account of their Morals and Behaviour towards the Church of *England*. By *Samuel Weſley*. Printed for *Robert Knaplock* at the Angel and Crown in St. *Paul's* Church-yard.

EMmenologia in qua fluxus Muliebris menſtrui Phænomena, Periodi, Vitia, cum medendi methodo, ad Rationes Mechanicas exiguntur. Authore Joh. Friend M.B. *Æd. Chriſti Alumn. Oxoniæ e Theatro Sheldoniano, Impenſis* Thomæ Bennet *ad inſigne Lunæ falcatæ in Cœmeterio S. Pauli.*

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